

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

FIDENCIO MATA,)	
)	
Claimant,)	IC 99-501050
)	IC 99-502367
v.)	
)	
KING B, INC.,)	
)	FINDINGS OF FACT,
Employer,)	CONCLUSIONS OF LAW,
)	AND RECOMMENDATION
and)	
)	
LIBERTY NORTHWEST)	
INSURANCE CORPORATION,)	FILED OCT 14 2004
)	
Surety,)	
Defendants.)	
)	

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Industrial Commission assigned this matter to Referee Douglas A. Donohue. He conducted a hearing in Idaho Falls on January 14, 2004. An interpreter assisted. Dennis R. Petersen represented Claimant. E. Scott Harmon represented Defendants. The parties presented oral and documentary evidence. They then submitted briefs. The case came under advisement on August 17, 2004, and is now ready for decision.

ISSUES

As modified and agreed upon by the parties at hearing, the issues to be resolved are:

1. Whether Claimant is medically stable and, if so, the date thereof;
2. Whether and to what extent Claimant is entitled to:
 - (a) further medical care; and
 - (b) additional PPI.

CONTENTIONS OF THE PARTIES

Claimant sustained an injury to his right index finger on March 16, 1999, while working as a meat cutter for Employer. After sutures followed by an exploratory surgery and a surgical amputation, he asserts continuing pain. Claimant relies on the opinion of Don A. Coleman, M.D., in requesting additional surgery – a ray amputation. If authorized, the surgery would result in additional impairment.

Defendants rely on the opinions of William Wilson, M.D., and R. Timothy Thurman, M.D., to assert that Claimant has reached maximum medical improvement and is not entitled to further medical care. Defendants have paid in accordance with Dr. Wilson's PPI rating and contend that no additional impairment should be given.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The testimony of Claimant;
2. Claimant's Exhibits 1 through 19 admitted at hearing;
3. Defendants' Exhibits A through R admitted at hearing; and
4. The post-hearing depositions of Dr. Coleman (Exhibit 19) and Dr. Wilson (Exhibit R).
5. Upon a motion and telephone conference, a surveillance videotape of Claimant was admitted as Defendants' Exhibit S.

Having fully considered all of the above evidence, the Referee submits the following findings of fact and conclusions of law for review by the Commission.

FINDINGS OF FACT

1. At the time of hearing, Claimant was 44 years old and living in Idaho Falls, Idaho.
2. Claimant was injured on March 16, 1999, when he cut his right index finger while

cutting meat. Sutures were required.

3. Dr. Wilson, a hand surgeon, began treating Claimant on April 1, 1999. On April 2, 1999, Dr. Wilson surgically explored the wound and noted some scarring around the flexor tendon. He characterized Claimant's recovery as a "very slow recovery, very prolonged" due to postoperative pain.

4. Effective May 4, 1999, Dr. Wilson released Claimant to work with temporary restrictions which would be removed effective May 10. He recommended physical therapy for "generalized strengthening."

5. On September 23, 1999, Dr. Wilson opined Claimant was at maximum medical improvement. On November 1, 1999, he rated Claimant's PPI at 5% of the whole person.

6. On November 23, 1999, Dr. Wilson noted that Claimant "wishes to proceed with a [surgical] procedure which might improve his situation."

7. On February 10, 2000, Dr. Wilson noted that Claimant had obtained a second opinion and was now complaining of progressive pain involving a larger area. He opined that "the progressive nature of his complaints effectively negates a surgical effort without better definition of the problem."

8. On October 26, 2000, Claimant reported continuing complaints, and Dr. Wilson recalculated PPI at 11% of the whole person which "accords with some liberality an appropriate impairment based on the objective criteria that we can indeed evaluate [with] some impairment to adjacent middle, ring, and little fingers." He noted Claimant continued to exhibit a preference for using his right hand despite his complaints. He questioned the credibility of Claimant's complaints.

9. On October 25, 2001, Dr. Wilson noted that Claimant's complaints raised the

possibility of an amputation at the PIP joint. Upon Claimant's complaints of persisting pain, in March of 2002, Dr. Wilson amputated past the second knuckle.

10. During postsurgical rehabilitation, the therapist opined Claimant exhibited symptoms which "are strongly suggestive of CRPS."

11. When Claimant continued to complain of pain, Dr. Wilson referred Claimant to a pain fellowship trained physician, Catherine Linderman, M.D. Dr. Linderman attempted nerve blocks, trigger point injections and other therapy. Nothing helped significantly.

12. On October 8, 2002, Dr. Wilson reviewed Dr. Linderman's attempts to ameliorate Claimant's pain, opined PPI was unchanged, and released Claimant to unrestricted work.

13. Dr. Wilson opined additional surgery will unlikely be helpful. Claimant's "pain has always been well out of proportion to any of his clinical signs or symptoms."

14. Claimant sought out Dr. Coleman. Dr. Coleman recommended further surgery – a ray amputation – to relieve Claimant's pain. Dr. Coleman opined that Claimant had developed neuromas involving the finger. He recommended a complete ray amputation to relieve Claimant's pain.

15. Claimant saw hand surgeon Dr. Thurman at the request of Defendants. He opined a probable need for future surgery, but in April 2003 he changed his opinion and opined further surgery was not recommended.

16. Dr. Wilson opined Claimant did not exhibit signs or symptoms of neuroma and disagreed with Dr. Coleman's recommendation for surgery.

17. On August 19 and September 8, 2003, Claimant saw psychologist Mark D. Corgiat, Ph.D. Dr. Corgiat opined Claimant has a significant psychological overlay which contributes to his inability to resolve physical difficulties. He opined secondary gain

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was likely. He opined Claimant's underlying personality characteristics contributed to his current psychological problems and Claimant's condition is not stable. He opined the psychological condition was not severe enough to impose a significant limitation to his ability to work.

18. At hearing, Claimant reported "constant" pain from finger to shoulder. He reported that if the stub of the finger is touched he will "get a cramp . . . [in] all the muscles along the forearm and my hand." Claimant reported his hand was too weak to open a "bottle of pop or a beer or something." He reported he was unable to work consistently and unable to push a cart with his right hand.

19. Video surveillance shows Claimant working on a pickup. He appears to be using a socket wrench or torque wrench and other tools with his right hand. Later, while conversing with a neighbor, Claimant is seen opening and then carrying a beverage bottle with his right hand. The video does show one brief instance where Claimant appears to react by drawing up his right hand. This brief action does not prevent or slow him from continuing to work on the pickup.

DISCUSSION AND FURTHER FINDINGS

20. Dr. Wilson has been Claimant's treating physician for approximately three years. He has performed two surgeries on Claimant and has considered Claimant's impairment rating three times. The 11% whole person PPI rating took into account not only the impairment to the right index finger, but also the impairment to the adjacent, ring and little fingers. Dr. Wilson's final assignment remained at 11%; Claimant exchanged range of motion limitations for further amputation of the right index finger. Dr. Wilson released Claimant to work with no limitations on October 9, 2002.

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21. Dr. Wilson has had extensive dealings with Claimant. He proceeded conservatively and was sensitive to Claimant's pain issues – as seen by his reconsideration of Claimant's impairment rating and his referral of Claimant to Dr. Linderman. Dr. Wilson's conclusion that Claimant is medically stable as of October 8, 2002, and that there is nothing that "would surgically be amenable to treatment" is persuasive.

22. The videotape substantially undermines Claimant's reports of inability to use his right hand.

23. Idaho Code § 72-432(1) defines Defendants' obligations to provide medical care. It is for the physician, not the Commission, to decide whether the treatment was required. The only review the Commission is entitled to make of the physician's decision is whether the treatment was reasonable. Sprague v. Caldwell Transportation, Inc., 116 Idaho 720, 779 P.2d 395 (1989). Dr. Coleman was not outside the referral system as alleged by Defendants, and his care is compensable. However, his opinions about future surgery are based largely upon the credibility of Claimant's complaints. Moreover, Dr. Wilson, as treating physician essentially since the accident, is in a better position to evaluate Claimant's condition over time and the prognosis for Claimant's condition.

24. To date, Claimant has received reasonable medical treatment - surgeries, physical rehabilitation, ganglion blocks, pain medication, and trigger point injections. He failed to show future care was related to the industrial accident or that it is reasonable. Claimant is not entitled to the additional surgery that he requests.

CONCLUSIONS OF LAW

1. Claimant sustained an injury to the right index finger caused by a work-related accident on March 16, 1999. Claimant reached medical stability on October 8, 2002.

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2. The Claimant has a PPI rating of 11% of the whole person.
3. Claimant is entitled to medical benefits for care received to the date of hearing, but failed to show he is entitled to further medical care.

RECOMMENDATION

The Referee recommends that the Commission adopt the foregoing Findings of Fact and Conclusions of Law as its own and issue an appropriate final order.

DATED this 30TH day of September, 2004.

INDUSTRIAL COMMISSION

ATTEST:

/S/ _____
Douglas A. Donohue, Referee

/S/ _____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 14TH day of OCTOBER, 2004, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION** was served by regular United States Mail upon each of the following persons:

Dennis R. Petersen
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db

/S/ _____